

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

TWENTIETH DAY — WEDNESDAY, FEBRUARY 19, 2003

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 28).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Ellis; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Rangel; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Absent — Eiland.

The invocation was offered by Father Dan Lahart, president, Strake Jesuit College Preparatory School, Houston, as follows:

We gather this morning in the presence of God to ask his blessing on us, our work, our communities, our state, and our nation.

Good and gracious God, as we come together today, we ask you to send your spirit among us. Fill us with the desire to do your will in all our endeavors. Help us to care for those who are most vulnerable—the young, the sick, the poor, and the elderly.

Fill us with a spirit of cooperation and collaboration. May all here work with others, even those with whom we may disagree, to serve those who have trusted this assembly with the responsibility to govern. Fill us with your wisdom to seek answers to difficult problems.

Guide the deliberations of this assembly today, Lord. May the work of these women and men bring honor and glory to your name. May they be true servants of our people. May they be true servants of you.

And as we ask your blessing on us, we ask you to remember the needs of our country at this difficult time. In particular, please watch out for the safety of our young men and women who serve in our armed forces. May their work bring about your peace that is so needed in our world today.

We ask all these things, Lord, in your name, our creator, and our redeemer. Amen.

The Buffalo Cavalry Color Guard placed the colors on the platform.

CAPITOL PHYSICIAN

The speaker recognized Representative W. Smith who presented Dr. Clare Hawkins of Baytown as the "Doctor for the Day."

The house welcomed Dr. Hawkins and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

INTRODUCTION OF GUEST

The speaker recognized Representative Wong who introduced Dr. Stanley Woo of Houston.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

HR 237 - ADOPTED (by J. Keffer, et al.)

Representative J. Keffer moved to suspend all necessary rules to take up and consider at this time **HR 237**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 237, Recognizing February 19, 2003, as Texas Midwest Day at the Capitol.

HR 237 was read and was adopted without objection.

On motion of Representative Hardcastle, the names of all the members of the house were added to **HR 237** as signers thereof.

HR 187 - ADOPTED (by Hardcastle)

Representative Hardcastle moved to suspend all necessary rules to take up and consider at this time **HR 187**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 187, Recognizing February 19, 2003, as Gunnery Sergeant John Basilone Day.

HR 187 was read and was adopted without objection.

HR 259 - ADOPTED
(by Dukes)

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 259**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 259, Honoring the Central and South Texas Minority Business Council.

HR 259 was read and was adopted without objection.

SCR 16 - ADOPTED
(Hardcastle - House Sponsor)

Representative Hardcastle moved to suspend all necessary rules to take up and consider at this time **SCR 16**.

The motion prevailed without objection.

The following resolution was laid before the house:

SCR 16, In memory of William Lawrence Ehrle, Sr., of Austin and Childress.

SCR 16 was unanimously adopted by a rising vote.

HR 124 - ADOPTED
(by Dunnam)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HR 124**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 124, Congratulating the Leon High School Lady Cougars on winning the 2002 Class 2A state volleyball championship.

HR 124 was read and was adopted without objection.

On motion of Representative Mabry, the names of all the members of the house were added to **HR 124** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Dunnam who introduced members of the Leon High School Lady Cougars volleyball team.

(Eiland now present)

HR 250 - ADOPTED
(by Miller)

Representative Miller moved to suspend all necessary rules to take up and consider at this time **HR 250**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 250, Recognizing February 19, 2003, as Comanche County Day at the State Capitol.

HR 250 was read and was adopted without objection.

HR 266 - ADOPTED
(by Hughes)

Representative Hughes moved to suspend all necessary rules to take up and consider at this time **HR 266**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 266, Recognizing February 19, 2003, as Pittsburg Day at the State Capitol.

HR 266 was read and was adopted without objection.

HR 271 - ADOPTED
(by Mabry)

Representative Mabry moved to suspend all necessary rules to take up and consider at this time **HR 271**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 271, In memory of Brenda Joyce Dobelbower of Waco.

HR 271 was unanimously adopted by a rising vote.

On motion of Representative Edwards, the names of all the members of the house were added to **HR 271** as signers thereof.

HR 272 - ADOPTED
(by Mabry)

Representative Mabry moved to suspend all necessary rules to take up and consider at this time **HR 272**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 272, In memory of Janice Roberson of Waco.

HR 272 was unanimously adopted by a rising vote.

On motion of Representative Edwards, the names of all the members of the house were added to **HR 272** as signers thereof.

HR 256 - ADOPTED
(by Peña)

Representative Peña moved to suspend all necessary rules to take up and consider at this time **HR 256**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 256, Recognizing February 19, 2003, as WIC Day at the State Capitol.

HR 256 was read and was adopted without objection.

HR 233 - ADOPTED
(by Ritter and Deshotel)

Representative Ritter moved to suspend all necessary rules to take up and consider at this time **HR 233**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 233, Recognizing February 19, 2003, as Texas Probation Association Day at the State Capitol.

HR 233 was read and was adopted without objection.

On motion of Representative McClendon, the names of all the members of the house were added to **HR 233** as signers thereof.

HR 263 - ADOPTED
(by Castro, Menendez, et al.)

Representative Castro moved to suspend all necessary rules to take up and consider at this time **HR 263**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 263, Honoring the Edgewood Independent School District in San Antonio.

HR 263 was read and was adopted without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Appropriations, Subcommittee on General Government, 8:30 a.m. instead of 8 a.m. tomorrow, E1.030, for a public hearing.

Government Reform, will reconvene upon adjournment.

General Investigating, 9 a.m. instead of 8 a.m. tomorrow.

Appropriations, Subcommittee on Health and Human Services, 12:30 p.m. instead of upon adjournment.

Ways and Means, upon adjournment today, E2.010, for a formal meeting.

Appropriations, Subcommittee on Education, 8:30 a.m. instead of 7 a.m. tomorrow, JHR 140, for a public hearing.

PROVIDING FOR ADJOURNMENT

Representative Elkins moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. tomorrow in memory of Dennis Lee of Atlanta, Georgia.

The motion prevailed without objection.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

ADJOURNMENT

In accordance with a previous motion, the house, at 11:12 a.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 901 (By King), Relating to the authority of a municipality to implement a photographic traffic signal enforcement system; providing for the imposition of civil penalties and providing a criminal penalty.

To Transportation.

HB 902 (By Solomons), Relating to servicing of a mortgage loan.

To Financial Institutions.

HB 903 (By Kolkhorst), Relating to the listing of a business location of certain businesses in a telephone directory or database.

To Business and Industry.

HB 904 (By Mowery), Relating to certain nonprofit cemetery corporations.

To Business and Industry.

HB 905 (By Mowery), Relating to the authority of a taxing unit to enter into and the terms of ad valorem tax abatement agreements.

To Local Government Ways and Means.

HB 906 (By Gallego), Relating to the human resources staff and functions of state agencies.

To State Affairs.

HB 907 (By Gallego), Relating to limiting the liability of certain persons for the inspection, installation, or adjustment of child passenger safety seat systems.

To Civil Practices.

HB 908 (By Gallego), Relating to prohibiting certain foreign corporations from participating in state contracts.

To State Affairs.

HB 909 (By Gallego), Relating to continuation and functions of the State Board for Educator Certification.

To Public Education.

HB 910 (By Gallego), Relating to the continuation and functions of the State Board of Dental Examiners.

To Public Health.

HB 911 (By Gallego), Relating to creating a recognition day in honor of Texas firefighters.

To State Affairs.

HB 912 (By Madden), Relating to the distribution of school district employment policies to teachers employed under term contracts.

To Public Education.

HB 913 (By Goodman and Dutton), Relating to the conservatorship of, and the possession of and access to, a child.

To Juvenile Justice and Family Issues.

HB 914 (By Ritter), Relating to the taking of a specimen of a person's breath or blood in connection with certain alcohol-related offenses.

To Criminal Jurisprudence.

HB 915 (By Burnam), Relating to the establishment of a minimum wage for public employees.

To State Affairs.

HB 916 (By Miller), Relating to a petition for the adoption of a child.

To Juvenile Justice and Family Issues.

HB 917 (By Eiland), Relating to the authority of counties and municipalities to incur debt to participate in erosion response projects undertaken by the General Land Office.

To Natural Resources.

HB 918 (By Eiland), Relating to the authority of certain counties to implement a pilot program to provide certain indigent health care services and to the funding of the program.

To Local Government Ways and Means.

HB 919 (By Eiland), Relating to the review and approval of a subdivision of land by certain special districts.

To Natural Resources.

HB 922 (By Eiland), Relating to liability insurance for certain persons licensed or permitted under the Alcoholic Beverage Code.

To Licensing and Administrative Procedures.

HB 923 (By Eiland), Relating to special license plates to aid the recovery, rehabilitation, and release of stranded marine mammals.

To Transportation.

HB 924 (By Eiland), Relating to extending the boundaries of the Galveston County Navigation District No. 1.

To Transportation.

HB 925 (By Eiland), Relating to the rollback tax rate for certain taxing units.

To Local Government Ways and Means.

HB 926 (By Eiland), Relating to special license plates benefiting the State of Texas Anniversary Remembrance (STAR) Day Foundation.

To Transportation.

HB 927 (By Eiland), Relating to the selection of appraisal review board members.

To Local Government Ways and Means.

HB 929 (By Chavez), Relating to the protection of certain unmarked burials and associated human remains or funerary objects and to the creation of certain offenses concerning unmarked burials; providing criminal penalties.

To State Cultural and Recreational Resources.

HB 930 (By Chavez), Relating to rates and expenditures under the Medicaid program and the state child health plan program in certain strategic investment areas.

To Public Health.

HB 931 (By Chavez), Relating to the penalty for failure to yield the right-of-way.

To Transportation.

HB 932 (By Christian), Relating to the creation of a judicial district composed of Nacogdoches County.

To Judicial Affairs.

HB 933 (By Dutton), Relating to the granting of a charter for an open-enrollment charter school by a college or university.

To Public Education.

HB 934 (By Casteel), Relating to the composition of the Comal County Juvenile Board.

To Judicial Affairs.

HB 935 (By Casteel), Relating to the creation of magistrates in Comal County.

To Judicial Affairs.

HB 936 (By McCall), Relating to a fee charged in connection with collection of a dishonored check.

To Financial Institutions.

HB 937 (By Farabee), Relating to animal impoundment facilities operated by a small municipality.

To Public Health.

HB 938 (By Riddle), Relating to the right to file suit in this state.

To Civil Practices.

HB 939 (By Isett), Relating to the ad valorem tax rates of certain taxing units.

To Local Government Ways and Means.

HB 940 (By Chisum), Relating to the Hemphill County Hospital District.

To County Affairs.

HB 941 (By Chisum), Relating to the export of certain beer, malt liquor, and ale.

To Licensing and Administrative Procedures.

HB 942 (By Chisum), Relating to certain exemptions from bond requirements for certain well operators.

To Energy Resources.

HB 943 (By Krusee), Relating to vehicles eligible for conservation license plates supporting the Texas Parks and Wildlife Department.

To Transportation.

HB 944 (By King), Relating to the admission to public institutions of higher education of students with nontraditional secondary educations.

To Higher Education.

HB 945 (By King), Relating to parental consent to abortion.

To State Affairs.

HB 946 (By F. Brown), Relating to the permissible size of certain recreational vehicles operated on a public highway.

To Transportation.

HB 947 (By Flores), Relating to the regulation of boilers.

To Licensing and Administrative Procedures.

HB 948 (By Crownover), Relating to a veterinarian member of the Texas Racing Commission.

To Licensing and Administrative Procedures.

HB 949 (By Haggerty), Relating to the designation of a portion of Interstate Highway 10 inside the city limits of El Paso as the Gene Roddenberry Memorial Highway.

To Border and International Affairs.

HB 950 (By Isett), Relating to an optional defined contribution retirement plan for persons eligible to participate in the Teacher Retirement System of Texas.

To Pensions and Investments.

HB 951 (By Isett), Relating to an optional defined contribution retirement plan for persons eligible to participate in the Employees Retirement System of Texas.

To Pensions and Investments.

HB 952 (By Isett), Relating to the date on which the moratorium on making or accepting political contributions before or during a regular legislative session begins.

To Elections.

HB 953 (By Isett), Relating to educational requirements for game wardens.

To State Cultural and Recreational Resources.

HB 954 (By Isett), Relating to providing a tax-exempt benefit plan to cover educational expenses to employees of state agencies.

To State Affairs.

HB 955 (By Isett), Relating to a tax-exempt benefit plan for educational expenses of school district employees.

To Public Education.

HB 956 (By Isett), Relating to the liability of certain charitable organizations.

To Civil Practices.

HB 957 (By Isett), Relating to the punishment of certain assaults committed against employees of primary or secondary schools.

To Criminal Jurisprudence.

HB 958 (By Isett), Relating to eligibility for a beginning position in a police department under municipal civil service.

To Urban Affairs.

HB 959 (By Allen and Stick), Relating to the benefits provided to the survivors of certain public employees killed in the line of duty.

To Appropriations.

HB 960 (By T. Smith), Relating to the transportation by motor vehicle of persons within the boundaries of certain airports; creating an offense.

To Transportation.

HB 961 (By Burnam), Relating to the liability of a governmental unit.

To Civil Practices.

HB 963 (By Burnam), Relating to the regulation of the sale and use of products containing mercury; providing penalties.

To Public Health.

HB 964 (By Guillen), Relating to the salaries and longevity pay of sheriff department personnel.

To County Affairs.

HB 965 (By Mercer), Relating to requiring the Texas Department of Health in consultation with the Texas Education Agency to study the cost and feasibility of installing automated external defibrillators in public high school buildings.

To Public Health.

HB 966 (By Alonzo), Relating to enforcement of requirements relating to the filing of certain financial statements and campaign finance reports.

To Elections.

HB 967 (By Alonzo), Relating to representation of constituents on state and local governing bodies.

To State Affairs.

HB 968 (By Alonzo), Relating to limiting increases in premiums paid for certain individual health insurance policies or plans.

To Insurance.

HB 969 (By J. Davis), Relating to requiring commissioners and vendors of the Port of Houston Authority of Harris County, Texas, to disclose certain financial relationships.

To Transportation.

HB 970 (By Truitt), Relating to the donation by a county of salvage and surplus property to a civic or charitable organization.

To County Affairs.

HB 971 (By Isett), Relating to the liability of a physician or health care provider to an individual receiving benefits under Medicaid.

To Civil Practices.

HB 972 (By Naishtat), Relating to the computation of income for certain recipients of financial assistance.

To Human Services.

HB 973 (By Grusendorf), Relating to the applicability of certain laws to public school districts and campuses rated exemplary by the Texas Education Agency.

To Public Education.

HB 974 (By Rose), Relating to the treatment of certain local chambers of commerce as charitable organizations for certain purposes.

To Civil Practices.

HB 975 (By Puente), Relating to the plugging of abandoned or deteriorated water wells.

To Natural Resources.

HB 976 (By Grusendorf), Relating to exempting certain purchases of machinery and equipment used for research or development from sales and use taxes.

To Ways and Means.

HB 977 (By Wohlgemuth), Relating to criminal offenses for conduct involving gambling devices.

To Licensing and Administrative Procedures.

HB 978 (By Dukes), Relating to certain life insurance policies insuring the life of an officer, stockholder, partner, or employee.

To Insurance.

HB 979 (By Dukes), Relating to property and casualty insurance coverage for certain manufactured homes.

To Insurance.

HB 980 (By Goodman), Relating to the circumstances under which a child may be adopted.

To Juvenile Justice and Family Issues.

HB 981 (By Solomons), Relating to appeals to small claims courts of certain determinations of the appraised value of property for ad valorem tax purposes.

To Local Government Ways and Means.

HB 982 (By Talton), Relating to the authority of a peace officer to make a warrantless arrest when a person confesses to committing a felony.

To Law Enforcement.

HB 983 (By Talton), Relating to the authority of an ad valorem tax appraisal district to obtain certain criminal history record information relating to an applicant for employment.

To Local Government Ways and Means.

HB 984 (By Van Arsdale), Relating to the issuance of warrants for the seizure of cruelly treated animals.

To Agriculture and Livestock.

HB 985 (By Thompson), Relating to a temporary service retirement option for certain members of the Employees Retirement System of Texas who are employed by the legislature.

To Pensions and Investments.

HB 987 (By Coleman), Relating to removal of human body parts after death; providing a penalty.

To Public Health.

HB 988 (By F. Brown), Relating to the composition of the First and Fourteenth courts of appeals districts.

To Judicial Affairs.

HB 989 (By Delisi), Relating to the provision of medications and medical supplies under the medical assistance program.

To State Health Care Expenditures, Select.

HB 990 (By Puente), Relating to an exemption from the sales and use tax for certain books sold at a school book sale.

To Ways and Means.

HB 991 (By Puente), Relating to the definition of "sexual contact" for purposes of certain sex offenses.

To Criminal Jurisprudence.

HB 992 (By Puente), Relating to foster care payments for certain children.

To Juvenile Justice and Family Issues.

HB 993 (By Wilson), Relating to a proceeding to vacate an order of paternity or child support.

To Juvenile Justice and Family Issues.

HB 994 (By Nixon and Villarreal), Relating to billboards along highways; imposing a civil penalty.

To State Cultural and Recreational Resources.

HB 995 (By Mercer), Relating to the protection of public employees who report a waste of funds from retaliation by a state or local governmental entity.

To Government Reform.

HB 996 (By Raymond), Relating to juvenile facilities and programs.

To Juvenile Justice and Family Issues.

HB 997 (By Raymond), Relating to a grant program for after-school child-care programs provided by school districts.

To Public Education.

HB 998 (By Raymond), Relating to a pilot program establishing a safe schools unit in the Department of Public Safety.

To Law Enforcement.

HB 999 (By Madden), Relating to electronic reporting of political contributions and expenditures.

To Elections.

HB 1000 (By Madden), Relating to the taking of witness depositions in a criminal case.

To Criminal Jurisprudence.

MESSAGE FROM THE SENATE

The following message from the senate was today received by the house:

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Wednesday, February 19, 2003

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SCR 16

Madla

In memory of William Lawrence Ehrle, Sr., of Austin and Childress.

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

ENROLLED

February 18 - HCR 42

SENT TO THE GOVERNOR

February 18 - HCR 41, HCR 42, HCR 46